

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

10-CV-1214

-Plaintiffs,

-against-

Affidavit

THE NEW YORK STATE and
THE NEW YORK STATE BOARD OF
ELECTIONS,

-Defendants.

STATE OF NEW YORK)

s.s.

COUNTY OF ALBANY)

Thomas Connolly, being duly sworn, deposes and says:

1. That he is the Deputy Director of Public Information
for the New York State Board of Elections.

2. Among his duties at the State Board of Elections is
MOVE Act compliance and in the furtherance of such duties he has
read the instant application of the Department of Justice for
supplemental relief based upon the alleged failure of the
various boards of elections to comply with this Court's Order
issued in October of 2010 with respect to military and overseas
voter ballots.

3. Affiant takes no issue with the statutory background
as set forth in the memorandum of support by the Department of
Justice but respectfully submits that the facts asserted with
regard to the 2010 UOCAVA ballot transmittals and receipts by

and to the county boards of elections need to be clarified to ensure the accuracy of the record in these proceedings.

4. Since the application of the Department of Justice presently before the Court, Affiant has resurveyed the various county boards of elections referenced in the Department of Justice application and makes this Affidavit based upon the information provided him by those boards of elections.

5. In assessing this motion, this Court should be aware of the fact that of the 55,710 UOCAVA applications on file in this state as of October 10, 2010, 92.72% were sent out on or by October 10, 2010.

6. Upon information and belief, the purpose of this proceeding and the purpose of this Court's October 19, 2010 Order was to insure that UOCAVA voters not be disenfranchised by the fact that ballots from the various board of elections in New York would not be sent out forty-five (45) days in advance of the election as required by the MOVE Act but for which compliance was waived in 2010.

7. This affidavit is submitted to apprise the Court as to the exact consequence of the failure of thirteen (13) counties to send out all UOCAVA ballots by October 10, 2010 for which applications were received by October 10, 2010. It is correct that these counties sent out ballots after October 10, 2010, to wit:

Board	Number
Cortland	5
Hamilton	1
Livingston	2
Montgomery	5
Rockland	15
Saratoga	15
Suffolk	1,361
Westchester	2,895
New York City ¹	317

8. Of those 4616 ballots sent out, 241 were based upon applications received after October 10, 2010 and thus not within the analysis contained in the Court's October 19, 2010 Order.

9. The Court should be aware that there is a further analysis which must be made in analyzing this data. Five local boards reported both sending out ballots after October 10, 2010 for which applications had been on file on or before October 10, 2010 and also receiving after November 24, 2010 which were not counted solely because they were received after November 24, 2010.

10. From these five boards, a total of 69 ballots, .12% of all ballots sent, were reported as being received after November

¹ The New York City Board of Elections covers five (5) counties: Bronx, Kings, New York, Richmond and Queens. Affiant does not possess a separate response from each of the five (5) counties which comprise the New York City Board of Elections and only has the response of the City Board itself.

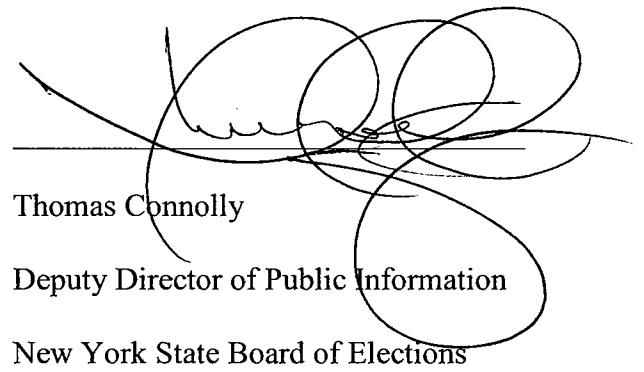
24, 2010 and were not counted solely because they were received after November 24, 2010. The breakdown of those 69 ballots is as follows:

Board	Ballots
Cortland	1
Saratoga	2
Suffolk	1
Westchester	50
New York City	15

11. However, this is not the end of the inquiry as the Court must know how many of those 69 UOCAVA ballots which were sent out after October 10, 2010 were applied for on or by October 10, 2010, for only those voters will have been disenfranchised by the actions of the various county boards in sending out the ballots after October 10, 2010.

12. As a result of the remedial Order of this Court and the efforts of the boards of elections state wide, *only one voter whose ballot was sent out after October 10, 2010 had that ballot disqualified solely because it was received by the board of elections after November 24, 2010, the latest receipt date authorized by this Court. This voter was located in New York City.*

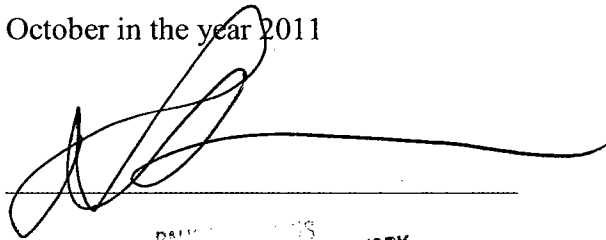
Date: October 31, 2011



Thomas Connolly
Deputy Director of Public Information
New York State Board of Elections

Sworn to me this 31st day of

October in the year 2011



NOTARY PUBLIC
RESIDING IN NEW YORK
COUNTY
COMMISSION EXPIRES 12/31/2014